

October 3, 2007 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

08AN0109

Travis and Sherry Wright

Bermuda Magisterial District  
12401 Lewis Road

REQUEST: A Variance to use a parcel of land which fronts on a dedicated but unimproved public road for dwelling purposes in an Agricultural (A) District.

RECOMMENDATION

Recommend denial of this Variance for the following reasons:

- A. As required by the Zoning Ordinance, there are no conditions upon which the request is based that are unique to the property and are not applicable generally to other properties in the area.
- B. There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards.

GENERAL INFORMATION

Location:

Property is known as 12401 Lewis Road. Tax ID 775-649-4458.

Existing Zoning:

Agricultural (A)

Size:

1.4 acres

Existing Land Use:

Vacant

Adjacent Zoning and Land Use:

North - A; Vacant  
South - A; Residential  
East - A; Vacant  
West - A; Residential

Transportation:

The applicants should make improvements to bring this dedicated but unimproved easement up to state standards, thereby eliminating the need for this request. In order for the applicants to provide maintenance to this section of road, a license agreement must be obtained from the Board of Supervisors. The license agreement typically requires the applicants to perform all maintenance to the access road within the right of way. In similar situations throughout the County, residents often request the County to perform maintenance on the right of way even though a private maintenance agreement exists. The County has no funds budgeted for this service.

Utilities:

Public water is available along Lewis Road, approximately 400 feet from the subject property. The subject property is within the Southern and Western Area Plan area, and generally connection to the public water system is required by County Code for new construction; however, since the parcel zoning has not changed from Agricultural, and the parcel is exempt from requirements of the Subdivision Ordinance, this parcel is exempt from the mandatory connection requirement. Also, the requirement to connect if within 200 feet of a public water line is not applicable. Should the property owner wish to connect to public water, they would need to request that an exception be granted to the County's connection policy since the parcel does not front on the road in which the water line is located.

General Plan:

(Southern and Western Area Plan)

Residential use of 1 – 5 acre lots

## DISCUSSION

The applicants request a Variance to use a parcel of land which fronts on a dedicated, but unimproved, public road for dwelling purposes. The access to the dwelling will be over a fifty (50) foot dedicated road from Point A to Point B, as shown on the attached map.

The applicants provide the following justification in support of this request:

We would like to construct a single family dwelling on the subject property. There is a dedicated but unimproved road that will give me access to my property. This easement will not affect traffic as the easement begins at the secondary road and the surrounding properties are family land.

The subject property was recorded on May 5, 1993. The subject property is owned by applicants, Travis and Sherry Wright, consists of 1.4 acres and is zoned Agricultural (A). Staff notes the subject property and the dedicated easement are unimproved.

The Board of Zoning Appeals hears requests for no public road frontage when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family, or complies with the plat validation process. In this case, the applicants must comply with the plat validation process.

The Chesterfield County Fire Department has requested that applicants with this type of request provide a fifteen (15) foot wide, all-weather road from the State maintained road to the dwelling capable of supporting fire equipment and/or ambulances. The road shall have at least a fourteen (14) foot clearance to overhanging objects. Condition 2 will address their concerns.

As required by the Zoning Ordinance, the applicants have provided no information which would serve as a basis for granting this Variance. Staff finds no physical surroundings, shape or topographical conditions on the property which would present a particular hardship to the owner if this Variance were denied. Staff finds no conditions upon which this request is based which are unique to the property and do not apply generally to other properties in the area.

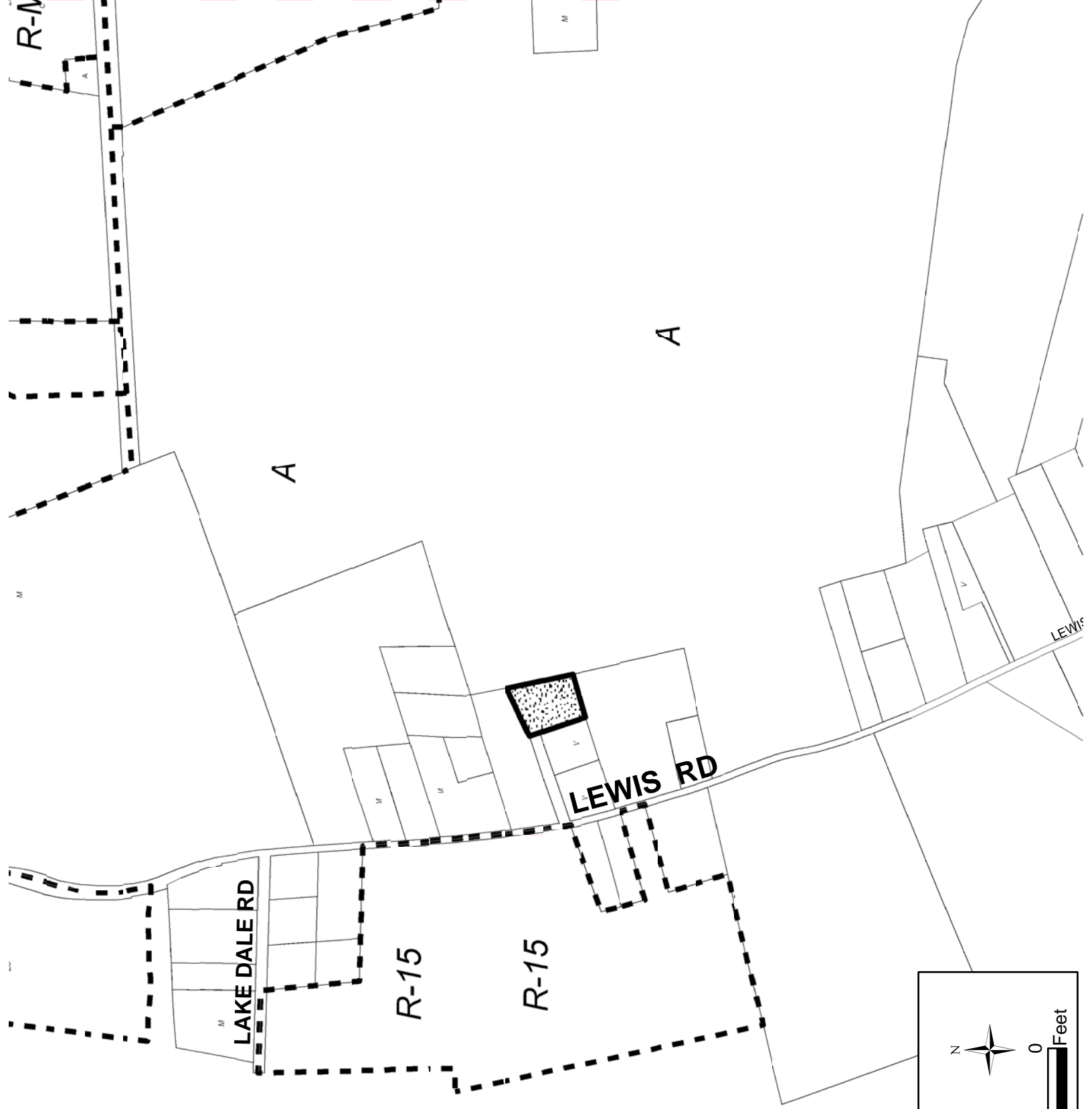
This request is based on financial consideration rather than physical hardship or other conditions that are not applicable to other properties in the area. Therefore, staff cannot support this request. Staff believes that the Board should deny this request for the reasons previously noted.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

## CONDITIONS

1. Prior to approval of a building permit, the applicants shall provide a copy of the approved license agreement with the County to use the dedicated and unimproved County right of way from Point A to Point B, as shown on the plat attached to the staff report. (P)

2. A fifteen (15) foot wide roadway shall be constructed and maintained to all weather standards from Point A to Point B in accordance with the following standards:
  - (a) This roadway shall consist of not less than the following: compacted soil sub-base with six (6) inches of compacted 21-B crushed stone, if an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the Subdivision Team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
  - (b) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
  - (c) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
  - (d) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection.
  - (e) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.
  - (f) Any cross drains shall be designed to accommodate a minimum ten (10) year storm. (P)
3. Prior to issuing a Certificate of Occupancy, the Planning Department shall inspect this roadway to determine compliance as set forth above. (P)
4. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers. (P)
5. The subject property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided. (P)



**08AN0109  
VARIANCE**

N

1,300 650 0 Feet

This page is blank.





08AN0109

LEWIS RD

LAKE DALE RD



This page is blank.



